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Dmt
2-21-4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Farwick, *et al.*

Appl. No.: 09/755,187

Filed: January 8, 2001

For: **New Nucleotide Sequences
Encoding the ptsH**



Art Unit: 1652

Examiner: C. Fronda

Atty. Dkt.: 21123/275573

Response to Restriction Requirement

Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED
FEB 21 2002
TECH CENTER 1600/2900

Sir:

In response to the Office Action dated January 18, 2002, in which the Examiner imposed a restriction requirement on the claims in the above-captioned application, Applicants hereby elect the inventions of restriction Group I. This includes claims 1-7 directed to an isolated polynucleotide, a vector and a coryneform bacterium containing the vector. It is respectfully requested that the claims in the non-elected restriction groups be cancelled without prejudice.

This election is made with traverse.

Applicants respectfully submit that the number of restriction groups in this case is excessive. Groups II-IV are related by the fact that they all involve processes in which the gene coding for component H of the phosphotransferase system is enhanced. If the gene itself is patentable (claims of restriction Group I) then all of the claims in these other groups should be patentable as well (at least with respect to prior art considerations). The claims in restriction groups V and VI are all clearly dependent upon the unique sequence of the ptsH gene (again the claims in restriction Group I) and are not concerned with new generalized techniques in molecular biology as placing them in separate groups would suggest. In light of these considerations, Applicants submit that it is unreasonable to require the payment of six

filing fees to prosecute these claims and respectfully request that the present division of restriction groups be reconsidered and reduced.

Applicants do not believe that any fee is required for the filing of the present document. Nevertheless, if one or more extensions of time are required to prevent the application from going abandoned, then such extensions of time are hereby petitioned and any fees therefor may be charged to our Deposit Account No. 03-3975, under Order No. 21123/275573.

If the Examiner believes that a phone call may help to expedite this matter, the Examiner is invited to call Applicants' undersigned attorney at (703) 905-2173.

Respectfully submitted,

PILLSBURY WINTHROP LLP

By: Michael A. Sanzo
Michael A. Sanzo
Reg. No. 36,912
Attorneys for Applicants

Date: February 15, 2002
1600 Tysons Boulevard
McLean, VA 22120
Tel. (703) 905-2173

MAS/amx

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Inventor(s): Farwick et al.

Appl. No.: 09 755,187

Series Code ↑

Serial No. ↑

Filed: January 8, 2001

Hon. Commissioner of Patents
Washington, D.C. 20231

Sir:

REPLY/AMENDMENT/LETTER

Date: February 15, 2002

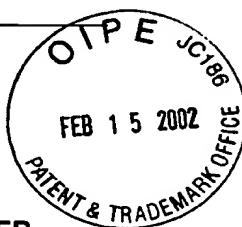
Group Art Unit 4866

Examiner: Fronda, C. L.

Atty. Dkt. P 275573 990219 BT

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Client Ref

Appl. Title: NEW NUCLEOTIDE SEQUENCES
ENCODING THE ptsH GENE

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This is a reply/amendment/letter in the above-identified application and includes the herewith attachment of same date and subject which is incorporated hereinto by reference and the signature below is treated as the signature to the attachment in absence of a signature thereto.

FEE REQUIREMENTS FOR CLAIMS AS AMENDED

1. Small Entity claim A. <input checked="" type="checkbox"/> NOT made B. <input type="checkbox"/> Withdrawn C. <input type="checkbox"/> made herewith D. <input type="checkbox"/> made previously		For B & C See Required Separate Paper (Pat-256)		Claims remaining after amendment	Highest number previously paid for	Present Extra	Large/Small Entity	Additional Fee	Fee Code Lg/Sm
2. Total Effective Claims				6	**minus 20	0	x \$18/\$9 =	+ \$0	103/203
3. Independent Claims				1	***minus 3	0	x \$84/\$42 =	+ \$0	102/202
4. If amendment enters proper multiple dependent claim(s) into this application for first time (leave blank if this is a reissue application) add							+ \$280/\$140 =	+ \$0	104/204
5. Original due Date: February 18, 2002				<input type="checkbox"/> NONE					
6. Petition is hereby made to extend the original due date to cover the date this response is filed for which the requisite fee is attached				(1 mo) (2 mos) (3 mos) (Usable only for ≤ 2mo.OA --- 4 mos) (Usable only for 30 day/1mo.OA --- 5 mos)	\$110/\$55 = \$400/\$200 = \$920/\$460 = \$1,440/\$720= \$1,960/\$980=		+ \$0		115/215 116/216 117/217 118/218 128/228
7. Enter any previous extension fee paid since above original due date and subtract				- \$0					
8.				Extension Fee Attached + \$0					
9. If Terminal Disclaimer attached, add Rule 20(d) official fee				+ \$110/\$55 + \$0 148/248					
10. If IDS attached requires Official Fee under Rule 97 (c), or if Rule 97(d) Request				+ \$180 + \$0 126 126					
11. After-Final Request Fee per rules 129(a) and 17(r)				+ \$740/370 + \$0 146/246					
12. No. of additional inventions for examination per Rule 129(b)				x \$740/370 ea + \$0 149/249					
13. Request for Continued Examination (RCE)				+ \$740/370 + \$0 1179/1279					
14. Petition fee for				+ \$0					
15.				TOTAL FEE ENCLOSED = \$0					

16. *If the entry in this space is less than entry in next space, the "Present Extra" result is "0".

17. **If the "Highest number previously paid for" in this space is less than 20, write "20" in this space.

18. ***If the "Highest number previously paid for" in this space is less than 3, write "3" in this space.

Our Deposit Account No. 03-3975)

(Our Order No. 21123 275573

C#

M#

CHARGE STATEMENT: The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficiencies only) now or hereafter relative to this application and the resulting Official Document under Rule 20, or credit any overpayment, to our Accounting/Order Nos. shown above, for which purpose a duplicate copy of this sheet is attached.

This CHARGE STATEMENT does not authorize charge of the issue fee until/unless an issue fee transmittal sheet is filed.

Query: Is appeal deadline now? If so, file Notice of Appeals separately.

Pillsbury Winthrop LLP
Intellectual Property Group

By Atty: Michael A. Sanzo

Reg. No. 36912

1600 Tysons Boulevard

McLean, VA 22102

Tel: (703) 905-2000

Sig:

Fax: (703) 905-2500

Tel: (703) 905-2173

Atty/Sec: MAS/AMX

NOTE: File this cover sheet in duplicate with PTO receipt (PAT-103A) and attachments